

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO**

IN RE:

Chapter 7

**JAMES RONALD BURNS
(& d.b.a. Brookstone G.C. by Design, Inc.)
Debtor**

Adversary Case No. 16-05025

Case No. 15-52933

* * * * *

**ELIZABETH DUERR (n.k.a. Tomeko)
2762 State Route 303
Mantua, Ohio 44255**

Judge Alan Koschik

Plaintiffs

**PLAINTIFF ELIZABETH DUERR'S
SUPPLEMENTAL REPLY TO MOTION TO
DISMISS COMPLAINT**

vs.

**JAMES RONALD BURNS
1573 Willimantic Drive
Virginia Beach, VA 23456**

Defendant

Now comes Plaintiff, Elizabeth Duerr (n.k.a. Tomeko), by and through counsel in the above captioned matter objecting to the discharge of the Debtor, James R. Burns. Plaintiff would indicate to the Court that the Debtor, James R. Burns, has now been indicted by the Portage County Grand Jury on December 1, 2016 on a charge of Grand Theft, a Felony of the Fourth Degree a violation of Section 2913.02(A)(3) of the Ohio Revised Code. The indictment relates to the construction project the subject of the allegations of fraud in the instant case (See Exhibit "A" attached hereto).

Movant prays that the Court now take into consideration the fact that the Debtor has now been indicted on the charge of Grand Theft, 2913.02(A)(3), which directly relates to the complaint objecting to the discharge of the Debtor in the above captioned matter.

Plaintiff indicates that the Portage County Grand Jury has now determined that there is probable cause to believe that the Debtor has committed the criminal charges as indicated. These

charges specifically reflect on the culpability of the Debtor in relation to this Court in it's evaluating the Debtor's ability to have the debts owed to this Plaintiff discharged.

Movant therefore prays that the Court evaluate these indictments in that regard.

Respectfully submitted,


FRANK J. CIMINO #0007323

Attorney for Plaintiff

250 South Chestnut Street, Suite #18

Ravenna, Ohio 44266

(330) 297-5788

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/s/ Elizabeth Duerr

Elizabeth Duerr

CERTIFICATE OF SERVICE

The undersigned certifies that the below parties were served at the following addresses on the _____ day of February 2017, to the following, and via regular U.S. Mail pursuant to Fed. R. Bank P. 2002(g)(1)(A):

U.S. Trustee (via ECF)

Kathryn A. Belfance, Chapter 7 Trustee (via ECF)

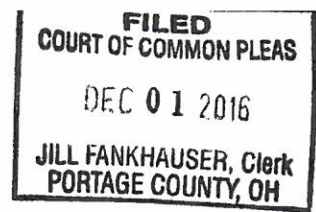
E. Lee Wagoner, Jr. (ECF & regular US Mail)

Attorney for Burns, James R.

2351 Becket Circle

Stow, Ohio 44224


FRANK J. CIMINO #0007323



**INDICTMENT: THEFT FROM A PERSON IN A
PROTECTED CLASS;
GRAND THEFT (3 Cts)**

COUNT THREE
THE STATE OF OHIO

PORTAGE COUNTY

)

) SS

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CR 2016 CR 00863

COMMON PLEAS COURT

Of the Term of October in the Year of Our Lord Two Thousand Sixteen.

*The Jurors of the Grand Jury of the State of Ohio, within and for the Body of the County Aforesaid, on their Oaths, in the Name and by the Authority of the State of Ohio, do find and present that **James R. Burns** between on or about the 5th day of May, 2014 and the 30th day of September, 2015, at the County of Portage, State of Ohio Aforesaid did*

with purpose to deprive Joseph G. Tomecko and Elizabeth J. Tomecko a.k.a. Elizabeth J. Duerr, the owners, of property or services, the value of said property being more than \$7,500 but less than \$150,000, knowingly obtain or exert control over said property or services by deception.

Said act being Grand Theft, a Felony of the Fourth Degree,

Contrary to and in violation of Section 2913.02 (A) (3) of the Ohio Revised Code,
and

Contrary to the form of the Statute in such case made and provided and Against the Peace and Dignity of the State of Ohio.

VICTOR V. VIGLUICCI
PROSECUTING ATTORNEY

BY: Thomas R. Buchanan
PROSECUTING ATTORNEY/ASSISTANT

ENDORSED: *A TRUE BILL*

Aileen Kelly
FOREPERSON OR DEPUTY FOREPERSON

